Submitter: Teresa McCormick

On Behalf Of:

Committee: Senate Committee On Labor and Business

Measure: SB881

On behalf of TNT Management Resources, Inc (TNT) and our clients, we appreciate the opportunity to provide comments on SB 881. TNT is domiciled in Oregon and has been a PEO in the State for over 30 years. The average PEO client has between 10-15 worksite employees. Payroll, benefits, HR, tax administration, and regulatory compliance assistance are some of the many services we provide to growing businesses across the country. Although commonly referred to as “PEOs” or “professional employer organizations”, in Oregon we are called “worker leasing companies” and are subject to licensure pursuant to ORS 656.850.

SB 881 adds important clarification to Paid Leave Oregon and allows clients of aggregate reporting PEOs to qualify for important provisions of HB 2005. Under Paid Leave Oregon, the Oregon Employment Department is currently requiring quarterly reporting by BIN number in the FRANCES system, and the software does not recognize worker leasing clients as employers under Paid Leave Oregon unless reporting is done under a separate client BIN number. For those PEOs who file payroll taxes in the aggregate for all clients, using the PEO’s BIN does not accurately track employee wages to the correct client company. As a result, clients of aggregate reporting PEOs are unable to qualify for three important provisions of HB 2005:

(1) Clients of aggregate reporting PEOs with fewer than 25 employees are not considered “small employers”, and therefore cannot meet the exemption in ORS 657B.150(4)(a) and are required to pay the 0.40% payroll tax.

(2) Clients of aggregate reporting PEOs with fewer than 25 employees are not considered “small employers”, and therefore cannot meet the exemption in ORS 657B.200 and are not eligible to apply for small employer training and replacement worker grants, despite paying the 0.40%.

(3) Clients of aggregate reporting PEOs are not treated as employers and therefore can’t apply for equivalent plans.

As a result of this, aggregate reporting PEOs are seeing significant disruption to their business model in Oregon because their clients are not receiving equal treatment under Paid Leave Oregon due to working with a PEO. NAPEO does not believe it was the intent of the legislation for a PEO client to be treated as a large employer for purposes of Paid Leave Oregon simply for using a PEO.

The amendment that is being drafted to SB 881 deals with the most impactful issue to the PEO industry: allowing PEO clients to be recognized as small employers. It would also allow PEOs to report within the FRANCES online system on behalf of client employers for clients that are considered small employers (fewer than 25 employees) under Paid Leave Oregon. After the effective date, the amendment will exempt client employers who are small employers from paying the 0.4% contribution and would set the effective date of mid-2024 to allow for FRANCES reprogramming. It would also allow PEOs to file an amended return to recover contributions paid on behalf of their small employer clients, allowing them to recover contributions made beginning in Q1 of 2023.

While we are supportive of the legislative intent of Paid Leave Oregon and recognize that the program will allow Oregon workers' access to family and medical leave insurance benefits, the PEO and client relationship were not contemplated in the development of the Program's reporting software, Frances Online.

Thank you for your consideration of our comments on SB 881. We appreciate the continued engagement from the Oregon Employment Department to help us find resolution. Should you have any questions with respect to the issues discussed herein, please contact me at (503)871-2060.

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